

III. Remarks

Claims 4-9, 13, 30, 31, and 33-37 are pending. Claims 4-9, 13, 30, and 31 are allowed. Reconsideration of the presently pending claims is respectfully requested in light of the following remarks.

The pending application is a reissue continuation of U.S. Patent Application No. 09/776,394 entitled "HUMAN SPINAL DISC PROSTHESIS" filed on February 2, 2001, which is a reissue application of the U.S. Patent No. 5,865,846 entitled " HUMAN SPINAL DISC PROSTHESIS" filed on May 15, 1997. Accordingly, the pending application has a priority date of May 15, 1997. *See MPEP §201.11.*

The Office Action rejected claims 33-37 under 35 U.S.C. §103(a) over U.S. Patent No. 4,863,477 to Monson in view of U.S. Patent Publication No. 2002/0035400 to Bryan et al. ("the '400 Bryan Publication"). Bryan claims a benefit under 35 U.S.C. §119(e) of the filing date of August 8, 2000. Accordingly, the '400 Bryan Publication is not prior art. Therefore, the Applicants respectfully request that the Examiner withdraw this rejection.

In view of the foregoing remarks, all of the claims currently pending in this application are in a condition for allowance. A telephone interview is respectfully requested to discuss any remaining issues in an effort to expedite the allowance of this application. The Office Action contains characterizations of the claims and the related art of which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

Respectfully submitted,



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I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on December 19, 2008.  Diane Sutton